

1 Recording requested by:

2 California Department of Transportation
3 District 7, *R/W EXCESS LAND*
4 120 South Spring Street
5 Los Angeles, California 90012

RECORDED/FILED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA

31 MIN. 1 P.M. NOV 21 1994
PAST

6 When Recorded, Mail To:

7 California Environmental Protection Agency
8 Department of Toxic Substances Control
9 Site Mitigation Branch, Region 3
10 1011 North Grandview Avenue
11 Glendale, California 91201
12 Attention: Chief, Site Mitigation Branch

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

COVENANT
TO RESTRICT THE USE OF PROPERTY
CALTRANS SITE 16, IMPERIAL AND NORMANDIE

FREE

P

18

This Covenant and Agreement (Covenant) is made on the
10th day of November, 1994, by the California Department of
Transportation (Covenantor), who is the owner of record of certain
property situated in the County of Los Angeles, State of
California, described in Exhibit "A" attached hereto and
incorporated herein by this reference (the Property) and by the
California Environmental Protection Agency, Department of Toxic
Substances Control (the Department), with reference to the
following facts:

- A. This Property, as described in Exhibit A, also referred
to as Site 16, contains hazardous substances. The
Property is located near the intersection of Imperial
Highway and Normandy Avenue; it is bordered by the St.
Francis X. Cabrini Church to the north, Normandie Avenue
to the east, Southwest Community College on the west,
and the Southern Pacific Transportation Company railroad

1 line to the south. The Property was used as an
2 uncontrolled landfill since the early 1940s, until the
3 1980s. Solid wastes composed of construction rubble
4 (concrete, bricks, asphalt), as well as glass, metals,
5 ash and rubbish were disposed of at the site during this
6 period. The lowest most portion of the landfill is
7 comprised primarily of wood. In a soil gas survey done
8 prior to excavating for the Century freeway, methane gas,
9 which could have been generated by the decomposition of
10 wood, was detected in the area. Soil gas monitoring will
11 be continued at Site 16 to assure that the methane gas
12 does not accumulate under the geomembrane (plastic) cap
13 which covers the Property. Other contaminants identified
14 at Site 16 include lead, copper, and zinc. Approximately
15 120,000 cubic yards of the contaminated landfill
16 materials will remain at Site 16, and approximately
17 31,555 square yards of Site 16 is covered by the clay
18 cap. This property is a designated State Superfund site.
19 Potential health effects. Lead in the soil is a hazardous
20 material. Primary exposure routes include direct contact with,
21 ingestion, and inhalation of contaminated soil or dust. The
22 installed cap will prevent contact with contaminated soil and
23 control contaminated dust. It will also prevent rain or surface
24 water from percolating down to the groundwater to degrade it.
25 Surrounding land use. The area surrounding the Property is highly
26 urbanized, consisting primarily of residential neighborhoods and
27

1 commercial zones along the major thoroughfares. A nursery school
2 and a plant nursery lie south of the Property.

3 B. Covenantor desires and intends that in order to protect
4 the present or future public health and safety, the
5 Property shall be used in a manner to avoid potential
6 harm to persons or property which may result--from
7 hazardous substances which have been deposited on
8 portions of the Property.

9
10 **ARTICLE I**
GENERAL PROVISIONS

11 1.01 Provisions to Run with the Land. This Covenant sets
12 forth protective provisions, covenants, restrictions, and
13 conditions, (collectively referred to as "Restrictions"), upon and
14 subject to which the Property and every portion thereof shall be
15 improved, held, used, occupied, leased, sold, hypothecated,
16 encumbered, and/or conveyed. Each and all of the Restrictions
17 shall run with the land, and pass with each and every portion of
18 the Property, and shall apply to and bind the respective successors
19 in interest thereof. Each and all of the restrictions are imposed
20 upon the entire Property unless expressly stated as applicable to
21 a specific portion of the Property. Each and all of the
22 Restrictions are imposed pursuant to Section 25355.5 of the
23 California Health and Safety Code and run with the land pursuant to
24 Section 25355.5. Each and all to the Restrictions are enforceable
25 by the Department pursuant to Health and Safety Code 25355.5.

26 /

27
94 2094836

1.02 Concurrence of Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees—of such owners, heirs, successors,—and assignees, that the Restrictions as herein established must be adhered to for the benefit of future owners and occupants and that their interest in the Property shall be subject to the restrictions contained herein.

1.03 Incorporation Into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated by reference in each and all deeds and leases of any portion of the Property.

1.04 Future Modifications. This Covenant may be modified consistent with applicable law or as necessary to fully implement the requirements of the remedial action plan.

ARTICLE II

DEFINITIONS

2.01 Property. "Property" shall mean that area as described in the Exhibit A attached herein.

2.02 Department. "Department" shall mean the California Environmental Protection Agency, Department of Toxic Substances Control, and shall include its successor agencies, if any.

2.03 Improvements. "Improvements" shall mean all buildings, roads, driveways, paved parking areas, excavations and regradings

1 hereafter constructed or undertaken on any portion of the Property.

2 2.04 Occupants. "Occupants" shall mean those persons
3 entitled by ownership, leasehold, or other legal relationship to
4 the exclusive right to occupy any portion of the Property.

5 2.05 Owner. "Owner" shall mean the Covenantor or its
6 successors in interest, including heirs, and assigns, who hold
7 title to all or any portion of the Property.

8
9 **ARTICLE III**
DEVELOPMENT, USE AND CONVEYANCE OF THE PROPERTY

10 3.01 Restrictions on Use. Covenantor promises to restrict
11 the use of the Property as follows:

12 The Property shall not be used, absent written Departmental
13 approval, for residential, agricultural, commercial or industrial
14 purposes, schools, child care facilities, convalescent homes or any
15 other facility for full time human habitation. If any person
16 wishes to use the Property for purposes which may result in human
17 exposure to site contaminants, the Department may require further
18 investigation, including, but not limited to, evaluation of the
19 risk to occupants of such facilities, feasibility of construction
20 of such facilities, and the impact of construction of such
21 facilities on public health and the environment.

22 3.02 Conveyance of Property. The Owner(s) shall provide
23 notice to the Department of any sale, lease or other conveyance of
24 the Property or an interest in the Property to a third person
25 within thirty (30) days of such conveyance. The Department shall
26 not, by reason of this covenant, have the authority to approve,

27 94 2094836

1 disapprove, or otherwise affect any sale, lease or other conveyance
2 of the Property except as otherwise provided by law.

3 3.03 Enforcement. Failure of the Owner(s) to comply with any
4 of the requirements, as set forth in paragraph 3.01 and 4.01
5 herein, shall be grounds for the Department, by reason of the
6 Covenant, to require that the Owner(s) halt, modify or remove any
7 Improvements implemented in violation of that paragraph. Any
8 violation of the Covenant shall be grounds for the Department to
9 file a civil action and/or any other legal or equitable remedy,
10 against the Owner as provided by law.

11 3.04 Notice of Agreements. All Owners and Occupants shall
12 execute a written instrument which shall accompany all purchase,
13 lease, sublease, or rental agreements relating to the property.
14 The instrument shall contain the following statement:

15 "The land described herein contains hazardous substances.
16 Such condition renders the land and the owner, lessee, or
17 other possessor of the land subject to the requirements,
18 restrictions, provisions and liabilities contained in Chapter
19 6.5 and Chapter 6.8 of Division 20 of the California Health
20 and Safety Code. This statement is not a declaration that a
21 hazard exists."

22
23 ARTICLE IV
24 SOIL GAS MONITORING AND CAP MAINTENANCE

24 4.01 Soil Gas Monitoring and Cap Maintenance.

25 The Property Owner(s) shall:

26 (a) Assume responsibility for the operation and maintenance

27
94 2094836

1 and reporting requirements pursuant to this Agreement.
2 Responsibility shall include implementation of a soil gas
3 monitoring and cap maintenance plan, as described in
4 Exhibit B, production of the annual reports pursuant to
5 paragraph 4.03 and completion of the five year review
6 pursuant to paragraph 4.04.

7 (b) Allow no improvements which will prevent access to such
8 monitoring wells by the Owner, the Department, or their
9 authorized representative.

10 (c) Allow the Department and its authorized representatives
11 the right at all times to inspect any of the soil gas
12 monitoring wells.

13 4.02 Right to Relocate. The Owner(s) shall have the right to
14 relocate any of the soil gas monitoring wells located on the
15 Property, subject to the Department's approval of a relocation
16 request. Such relocation request shall identify the specific area
17 of the proposed relocation and any technical information to confirm
18 that the location is consistent with the purpose and objectives of
19 the operation and maintenance requirements pursuant to the approved
20 RAP.

21 4.03 Annual Summary Reports. Within thirty (30) days of the
22 initial operation of the soil gas monitoring and on an annual basis
23 thereafter, the Owner(s) shall be responsible for the preparation
24 of a Annual Summary Report detailing the activities undertaken
25 pursuant to the provisions of this Agreement. The report must be
26 received by the Department by the fifteenth (15th) day of the first

27
94 2094836

month after each year ends and shall describe:

- a) Specific actions taken by or on behalf of the Owner during the previous year;
- b) Actions expected to be undertaken during the current year;
- c) All planned activities for the next year;
- d) Any requirements under this Agreement that were not completed;
- e) Any problems or anticipated problems in complying with this Agreement; and
- f) All results of sample analyses, tests, and other data generated under the Agreement, and any significant findings from these data.

4.04 Five Year Reviews. Pursuant to Section 121(c) of CERCLA (42 U.S.C. §9601, et seq.), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986, the Owner(s) shall be responsible for the preparation of a remedial action review work plan within thirty [30] days before the end of the five year period following approval of the final RAP (September 21, 1992). Within sixty [60] days of the Department's approval of the work plan, Owner(s) shall be responsible for the implementation of the work plan and submission of a comprehensive report of the results of the remedial action review. The report shall provide the results of all sample analyses, tests and other data generated or received by the Owner and evaluate the adequacy of the implemented remedy in protecting public health, safety and the

1 environment.

2 4.05 Financial Assurance. The Property Owner(s) will provide
3 sufficient monies for the operation and maintenance and site review
4 requirements pursuant to this Agreement.

5
6 **ARTICLE V**
VARIANCE AND TERMINATION

7 5.01 Variance. The Covenantor, or any Owner, or with the
8 Owner's consent, any Occupant of the Property or any portion
9 thereof may apply to the Department for a written variance from the
10 provisions of this Covenant. Such application shall be made in
11 accordance with Health and Safety Code, Section 25233.

12 5.02 Termination. The Covenantor, or any Owner, or with the
13 Owner's consent, an Occupant of the Property or a portion thereof
14 may apply to the Department for a termination of the Restrictions
15 as they apply to all or any portion of the Property. Such
16 application shall be made in accordance with California Health and
17 Safety Code, Section 25234.

18 5.03 Term. Unless terminated in accordance with paragraph
19 5.02 above, by law or otherwise, this Covenant shall continue in
20 effect in perpetuity.

21 **ARTICLE VI**
22 **MISCELLANEOUS**

23 6.01 No Dedication Intended. Nothing set forth herein shall
24 be construed to be a gift or dedication, or offer of a gift or
25 dedication, of the Property or any portion thereof to the general
26 public or for any purposes whatsoever.

27
94 2094836

1 6.02 Notices. Whenever any person gives or serves any
2 notice, demand, or other communication with respect to this
3 Covenant, each such notice, demand, or other communication shall be
4 in writing and shall be deemed effective 1) when delivered, if
5 personally delivered to the person being served or to an officer of
6 a corporate party being served or official of a government agency
7 being served, or 2) three business days after deposit in the mail
8 if mailed by United States mail, postage paid certified, return
9 receipt requested:

10 To: California Department of Transportation
11 District 7
12 120 S. Spring Street
 Los Angeles, California 90012
 Attn: Chief, Project Development Branch A

13 Copy to: California Environmental Protection Agency
14 Department of Toxic Substances Control
15 Region 3
16 1011 North Grandview Avenue
 Glendale, California 91201
 Attn: Chief, Site Mitigation Branch

17 (Any party to this Covenant, or bound thereby, may effect a change
18 of address by notifying other parties bound by this Covenant, in
19 writing, of the address change).

20 6.03 Partial Invalidity. If any portion of the Restrictions
21 set forth herein or terms is determined to be invalid for any
22 reason, the remaining portion shall remain in full force and effect
23 as if such portion had not been included herein.

24 6.04 Article Headings. Headings at the beginning of each
25 numbered article of this Covenant are solely for the convenience of
26 the parties and are not a part of the Covenant.

27
94 2094836

1 6.05 Recordation. This instrument shall be executed by the
2 Covenantor and by the Branch Chief, Department of Toxic Substances
3 Control. This instrument shall be recorded by the Covenantor in
4 the County of Los Angeles within ten (10) days of the date of
5 execution.

6 6.06 References. All references to the California Health and
7 Safety Code sections include successor provisions.

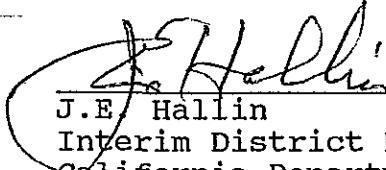
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

94 2094836

11


1 IN WITNESS WHEREOF, the parties execute this Covenant as of the
2 date set forth above.

3
4 OWNER/COVENANTOR
CALIFORNIA DEPARTMENT OF TRANSPORTATION

5
6
7 
8 J.E. Hallin
9 Interim District Director, District 7
California Department of Transportation
120 South Spring Street
Los Angeles, California 90012

10
11
12 DATE: 11-7-94

13
14 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

15
16
17 
18 Hamid Saebfar, Chief
19 Site Mitigation Branch
Regions 3 & 4
California Environmental Protection Agency
Department of Toxic Substances Control
20 1011 North Grandview Avenue
Glendale, California 91201

21
22
23 DATE: 11/10/94

24
25
26
27 94 2094836

1 STATE OF CALIFORNIA)

2)
3)
4)
5)
6)
7)
8)
9)
10)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
COUNTY OF LOS ANGELES)

on NOVEMBER 7,, 1994 before me, the undersigned, a
Notary Public in and for said state, personally appeared
J.E. HALLIN, personally known to me or proved to me
on the basis of satisfactory evidence to be the person who executed
the within instrument as DISTRICT DIRECTOR, CALTRANS,
of the corporation that executed the within instrument, and
acknowledged to me that such corporation executed the same pursuant
to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.

C. E. Winter

Notary Public in and for said
County and State

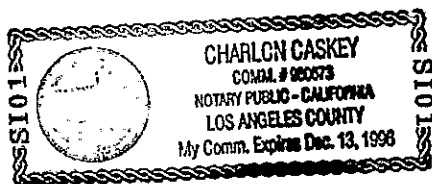


94 2094836

1 STATE OF CALIFORNIA)
2)
3 COUNTY OF LOS ANGELES)

4 On Nov. 10, 1994, 19__ before me, the
5 undersigned, a Notary Public in and for said state, personally
6 appeared HAMID JAEBFAR, personally known to me or proved
7 to me on the basis of satisfactory evidence to be the person who
8 executed the within instrument as CHIEF, SITE MITIGATING BRANCH, of
9 the California Environmental Protection Agency, Department of Toxic
10 Substances Control, the agency that executed the within instrument,
11 and acknowledged to me that such agency executed the same.

12
13 WITNESS my hand and official seal.



19
20
21
22
23
24
25
26
27

Charlon Caskey
Notary Public in and for said
County and State

Written by: A Gibson
Checked: VJA
sdc

07-LA-105-5.8
Parcel: 47650
50527-01-01

SITE 16

EXHIBIT A
PROPERTY DESCRIPTION

CALTRANS SITE 16
COVENANT
PAGE 15

That portion of Lot 3 of R. W. Poindexter's Subdivision in the County of Los Angeles, State of California, a portion of Section 12, in Township 3 South, Range 14 West, as per map recorded in Book 59, page 82 of Miscellaneous Records, in the office of the County Recorder of said county, for a restricted zone area for hazardous waste, described as follows:

Beginning at the intersection of the southerly line of the northerly 695.00 feet of Lot 3, and the westerly line of Lot 3, measured from the north line of Section 12; thence along said southerly line S 89° 59' 50" E, 263.00 feet; thence S 00° 09' 00" W, 40.00 feet; thence S 89° 59' 50" E, a distance of 360.09 feet to the westerly line of the easterly 40.00 feet of that portion of Lot 3 described in deed to the County of Los Angeles, recorded in Book 24067, page 385; thence along said westerly line S 00° 09' 00" W, 298.74 feet; thence S 75° 02' 37" E, 645.77 feet to the westerly line of Lot 3; thence northerly along said westerly line, N 0° 11' 27" E, 505.44 feet to the point of beginning.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature

Virgil J. Archambault
Licensed Land Surveyor

Date

4-27-94

94 2094836

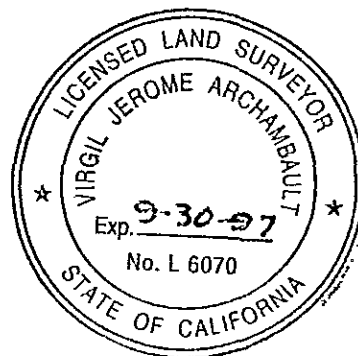


EXHIBIT B
OPERATION AND MAINTENANCE REQUIREMENTS FOR SITE 16

SOIL GAS MONITORING PLAN

I. Introduction

Soil gas monitoring will be conducted at Site 16 in order to ensure that there will be no significant accumulation of soil gases beneath the engineered clay cap. Soil gas monitoring will be in accordance with all applicable federal and state laws and regulations. Soil gas extraction/venting may be necessary if there is a significant accumulation of soil gases beneath the cap.

II. Location

Monitoring well No. 1 (MW1) and monitoring well No. 2 (MW2), as depicted in Exhibit C, will be utilized for the soil gas monitoring. The soil gas wells must be maintained for the required annual sampling. Relocation of the monitoring wells is permissible, upon written approval by the Department of Toxic Substances Control (Department).

III. Methods and Equipment

All field methods and equipment utilized to perform the annual soil gas monitoring must conform with all applicable federal and state laws and regulations. This includes, but is not limited to, proper sample collection, quality assurance and quality control, labeling, packaging, preservation, holding times and chain of custody. There must be proper record keeping of all field activities surrounding each sampling event.

At least one soil gas sample must be taken from each well and analyzed. There must be at least one sample duplicate taken per sampling event.

IV. Laboratory Analysis

Soil gas samples must be analyzed pursuant applicable federal and state laws and regulations. Analyses will be performed for the major components of landfill gas which include methane, carbon dioxide, nitrogen and oxygen. Hydrogen sulfide must also be analyzed for.

V. Schedule and Reports

Sampling and analysis must be performed and reported annually, or until discontinued by agreement with the Department.

CAP AND DRAINAGE SYSTEM MAINTENANCE PLAN

I. Introduction

An impermeable clay cap and geocomposite/geomembrane drainage system has been constructed on Site 16 in order to prevent direct human contact with the contaminated soils, capture surface water run off and limit rainfall infiltration. Annual inspection is necessary to ensure the cap and drainage system function as intended.

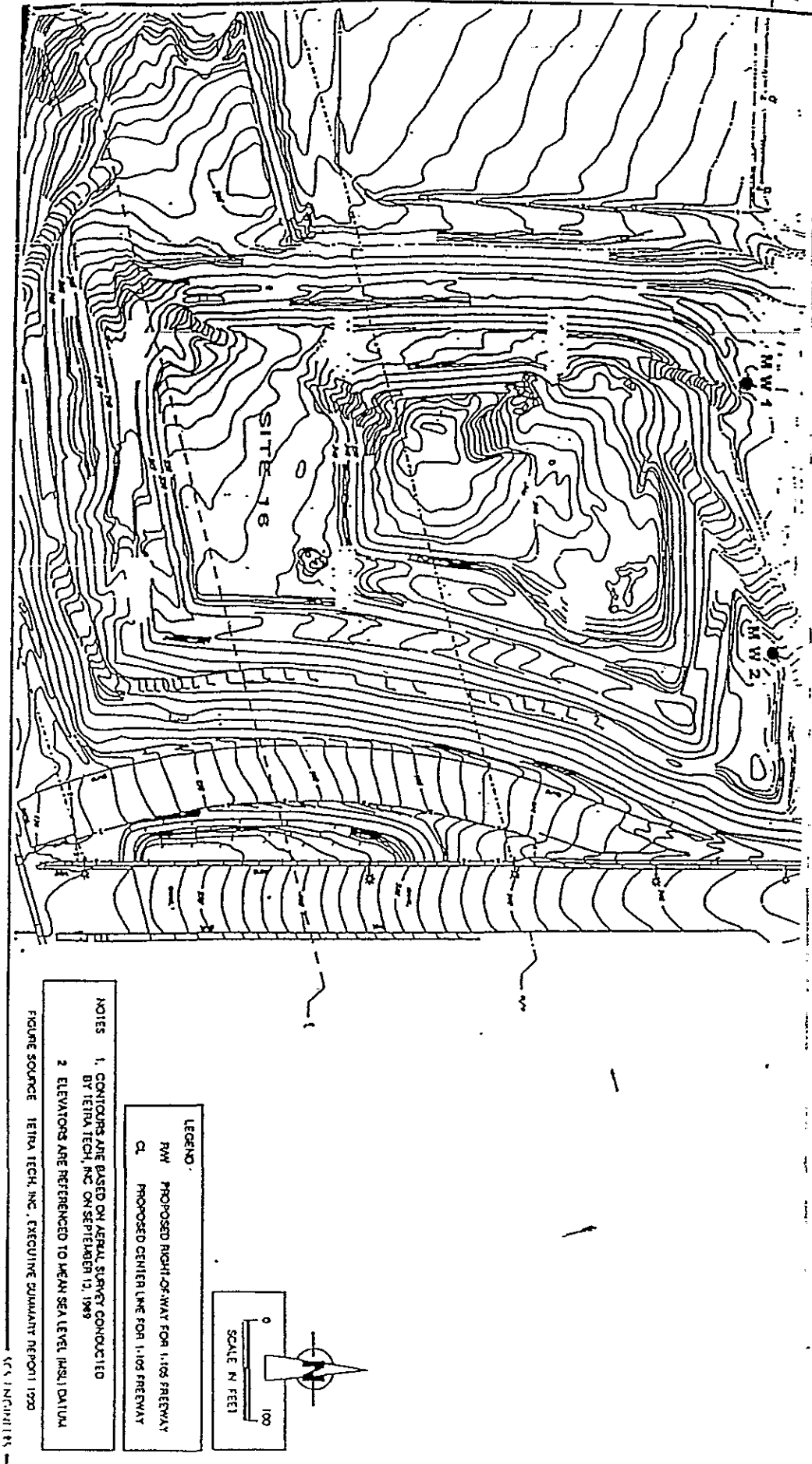
II. Surface Inspections

The cap and drainage system will be visually inspected at least annually. Inspection shall include checking for any obstruction or damage to the clay cap or drainage system, subsidence, uplifting, top soil erosion and/or movement, poor vegetation growth or any other surface feature that could appear to enhance surface water infiltration. Additional inspections may be necessary before, during and after any future development of the site. Problems with either the cap or drainage system should be corrected immediately.

III. Schedule and Reports

The investigations and repairs must be performed and reported annually, or until discontinued by agreement with the Department.

EXHIBIT C
CALTRANS SITE 16 AND MONITORING WELLS



94 2094836